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GILA COUNTY

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**CONTRACT NO. 051910**  
**VHF REPEATER SYSTEM IMPLEMENTATION**

**THIS AGREEMENT**, made and entered into this 7th day of September, 2010, by and between the Gila County Board of Supervisors, a political subdivision of the State of Arizona, hereinafter designated the **County**, and Canyon State Wireless, Inc. of the City of Phoenix, State of Arizona, hereinafter designated the **Contractor**.

**WITNESSETH:** That the Contractor, for and in consideration of the sum to be paid him by the **County**, in the manner and at the time hereinafter provided, and of the other covenants and agreements herein contained, hereby agrees, for himself, his heirs, administrators, successors, and assigns as follows:

**ARTICLE 1 – SCOPE OF SERVICES:** The Contractor shall furnish any and all labor, construction equipment, and services, required for performing all work for SOQ No. 051910 VHF Repeater System Implementation Project, in a good and workmanlike and substantial manner and to the satisfaction of the County under the direction and supervision of the County Project Manager or designee.

All County required forms completed in SOQ 051910 by mention are a binding part of this Contract: Qualification and Certification Form, Intentions Concerning Subcontracting, and No Collusion in Bidding.

The Contractor will furnish, install and optimize the following equipment at the Aztec Repeater Site

Furnish and install one new Daniels Electronics Repeater, one Thermo Electric Generator with its PLC panel and mounting pole, one new Duplexer, one new circulator, one new VHF antenna, one new transmission line, grounding straps, connectors, PolyPhaser, jumpers and transmission line hangers. Furnish and install four like solar panels on the existing mounting rails located on the roof of the communications shelter. Interface the new solar panels into the existing Forest Service solar power circuits.

Talk Out and Talk Back coverage maps. Simulation run using 5W portable radios at 95% confidence.

### **Equipment List**

Equipment and parts included for the installation and optimization of the County's communications assets at Aztec Peak.

<b>QTY</b>	<b>PART#</b>	<b>DESCRIPTION</b>
1	DAN-150-008A-DRC	DANIELS, VHF P-25 RPTR and AMPLIFIER
1		RECOMMENDED MAINT ITEMS
1	64546/SNC	DUPLEXER 4"/6
1	TS150PB1	VHF CIRCULATOR
120	LDF4-50A	1/2 FOAM HELIAX CABLE
1	ANT150F2	148-174 MHZ 2.5 DB GAIN OMNI TELEWAVE ANTENNA
1	L4TNMF-PS	N FEMALE CONECTOR FOR 1/2 CABLE
1	L4TNM-PS	N MALE CONECTOR FOR 1/2 CABLE
2	WSSH-012	1/2' STACKABLE HANGERS 10PK
4	SG12-06B2A	1/2' SUREGROUNDKIT 24'LEAD
1	WS-AA-UNIVERSAL	UNIV.ANGLE ADAPTERS
1	WS-EP4-1X1	4X4 ENTRY PANEL 1 HOLE
1	IS-B50HN-C1	SURGE ARRESTOR N FEM CONNECTORS
1	CRL4/9	ROXTEC BOOT 9 HOLES ROXTEC CRL 4/9
2	RFN10063I	N MALE CONNECTOR FOR LMR400
10	LMR400	LMR CABLE
1	CABLE CLAMPS	1/2 NYLON CABLE CLAMPS 100PK.
4	BP365	SOLAR PANEL SYSTEM, FOUR, ROOF MOUNT
1	MISCINSTALL ITEMS	GROUNDING SUPPLIES ETC...
1	956008215	5060L-12-SI-SO 54W THERMO ELECTRIC GENERATOR
1	PLC PANEL	VOLTAGE START HYBRID ELECTRONICS
1		PROPANE TANK, LINE & REGULATOR
1	9900 03229	Pole Stand - 5060

***Contractor Shall***

The Contractor shall be responsible for the following:

- Perform the installation and optimization of the Canyon State Wireless supplied equipment described above.
- Schedule the implementation in agreement with the Gila County.
- Coordinate the activities of all Canyon State Wireless subcontractors, if any, under this contract.
- Administer safe work procedures for installation.

***County Shall***

The County will assume responsibility for the installation and performance of all other equipment and work if any necessary for completion of this project that is not provided by the Contractor.

County's general responsibilities include the following:

- Provide all buildings required for system installation.
- Provide all interconnection circuits such as leased lines or other pathways necessary for system operation, unless provided for within the proposal.
- Insure communications sites meet space, power, and connectivity requirements for the installation of all equipment.
- Provide all licensing, site access, or permitting required implementing the project.
- Coordinate the activities of all other Gila County vendors or contractors.

***Warranty***

- A. Overview: Canyon State's warranty is a direct pass through of the specified manufactures warranty, and it is designed to provide the appropriate level of warranty coverage for the Communications System during the various phases of its implementation and use. Under the System Functionality Warranty, Canyon State provides assurances that the Communications System will perform in accordance with the specifications. Upon System Acceptance the System Functionality Warranty expires. Immediately thereafter, the Equipment is warranted in accordance with the applicable manufacturers limited warranties.
- B. System Functionality Warranty. Canyon State warrants that the Communications System will perform in accordance with the Canyon State performance specifications included. System Acceptance will constitute full compliance with and fulfillment of the System Functionality Warranty. Workmanship Warranty will be One full year from date of System Acceptance.

- C. Equipment Warranty. The Equipment is warranted to be free from defects in materials and workmanship throughout the Warranty Period. Canyon State, with the cooperation of the applicable manufacturer, at its option and expense, will repair or replace defective Equipment, or refund the purchase price thereof, and such action on the part of Canyon State shall be the full extent of Canyon State's liability hereunder.

The Equipment Warranty does not cover Software defects. Equipment defects caused by any equipment, software, products, elements or components not supplied by Canyon State under this Agreement, nor does it cover Equipment that has been subject to misuse, accident, neglect, damage, or unauthorized alterations or repairs. Batteries are excluded but carry their own separate limited warranty.

- D. Software Warranty: Software is warranted by the applicable manufacturer in accordance with the terms of the manufacturers Software License Agreement if applicable is attached as Exhibit A.

**ARTICLE 2 – SCHEDULE & FEES:** The Contractor further covenants and agrees, at his own proper cost and expense, to do all work and furnish all materials, labor, construction equipment, and services for performing all of the work for construction of said project and to completely construct the same and install the material therein, as called for by this agreement free and clear of all claims, liens, and charges whatsoever, in the manner and under the conditions specified within the time, or times, stated in this Contract.

Work on this project shall start within **no later than ten (10) Days of the Notice to Proceed**, and shall be completed within the following limits:

**SCHEDULE:**

For construction in the contract documents, the equipment installation portion of the project shall be completed within **Thirty (30) Days** of Contractor receipt of equipment from manufacturer.

**Equipment Fee:**

- |                         |             |
|-------------------------|-------------|
| 1. Total Materials Cost | \$33,172.28 |
| 2. Tax                  | \$ 3,184.54 |
| 3. Equip Sub-Total      | \$36,356.81 |

**Installation Fee:**

- |                     |             |
|---------------------|-------------|
| 1. Total Labor Cost | \$13,470.00 |
|---------------------|-------------|

**Project Total = \$ 49,826.81**

**ARTICLE 3 – TERMINATION:** Contract shall terminate thirty (30) days after written notice is received by either party to the other. Upon receipt of the notice, work in progress will be completed and any summaries and/or status reports shall be prepared and submitted, all within thirty (30) days. The County's financial obligation shall cover only the work performed up to the notice to terminate plus thirty (30) days, and not work completed thereafter.

**ARTICLE 4 – INDEMNIFICATION CLAUSE:** The Contractor agrees to indemnify and save harmless the County of Gila, its officers, agents and employees, and any jurisdiction or agency issuing permits for any work included in the project, their officers, agents and employees, hereinafter referred to as indemnitee, from all suits and claims, including attorney's fees and cost of litigation, actions, loss, damage, expense, cost or claims of any character or any nature arising out of the work done in fulfillment of the terms of this Contract or on account of any act, claim or amount arising or recovered under workers' compensation law or arising out of the failure of the Contractor to conform to any statutes, ordinances, regulation, law or court decree. It is agreed that the Contractor will be responsible for primary loss investigation, defense and judgment costs where this contract of indemnity applies. In consideration of the award of this contract, the Contractor agrees to waive all rights of subrogation against the County, its officers, officials, agents and employees for losses arising from the work performed by the Contractor for the County.

**ARTICLE 5 – INSURANCE REQUIREMENTS:** Contractor and subcontractors shall procure and maintain until all of their obligations have been discharged, including any warranty periods under this Contract are satisfied, insurance against claims for injury to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Contractor, his agents, representatives, employees or subcontractors.

The insurance requirements herein are minimum requirements for this Contract and in no way limit the indemnity covenants contained in this Contract.

The County in no way warrants that the minimum limits contained herein are sufficient to protect the Contractor from liabilities that might arise out of the performance of the work under this Contract by the Contractor, his agents, representatives, employees, or subcontractors. Contractor is free to purchase such additional insurance as may be determined necessary.

A. **MINIMUM SCOPE AND LIMITS OF INSURANCE** - Contractor shall provide coverage with limits of liability not less than those stated below:

**1. Commercial General Liability – Occurrence Form**

Policy shall include bodily injury, property damage, broad form contractual liability and XCU coverage.

- General Aggregate \$2,000,000
- Products – Completed Operations Aggregate \$1,000,000
- Personal and Advertising Injury \$1,000,000
- Each Occurrence \$1,000,000

- a. The policy shall be endorsed to include the following additional insured language:  
**"The County of Gila shall be named as an additional insured with respect to liability arising out of the activities performed by, or on behalf of the Contractor".**

## 2. Automobile Liability

Bodily injury and property damage for any owned, hired, and non-owned vehicles used in the performance of this Contract.

Combined Single Limit (CSL) \$1,000,000

- a. The policy shall be endorsed to include the following additional insured language: **"The County of Gila shall be named as an additional insured with respect to liability arising out of the activities performed by, or on behalf of the Contractor, including automobiles owned, leased, hired or borrowed by the Contractor".**

## 3. Worker's Compensation and Employers' Liability

Workers' Compensation	Statutory
Employers' Liability	
Each Accident	\$100,000
Disease – Each Employee	\$100,000
Disease – Policy Limit	\$500,000

- a. Policy shall contain a **waiver of subrogation** against the County of Gila.

## 4. Builders' Risk Insurance or Installation Floater

\$ N/A

In an amount equal to the initial Contract Amount plus additional coverage equal to Contract Amount for all subsequent change orders.

- a. The County of Gila, the Contractor, subcontractors, engineer and engineer's consultant and any others with an insurable interest in the work shall be **Insureds** on the policy.
- b. Coverage shall be written on an all risk, replacement cost basis and **shall include coverage for soft costs, flood and earth movement.**
- c. Policy shall be maintained until whichever of the following shall first occur: (1) final payment has been made; or, (2) until no person or entity, other than the County of Gila, has an insurable interest in the property required to be covered.

- d. Policy shall be endorsed such that the insurance shall not be canceled or lapse because of any partial use or occupancy by the County.
  - e. Policy must provide coverage from the time any covered property becomes the responsibility of the Contractor, and continue without interruption during construction, renovation, or installation, including any time during which the covered property is being transported to the construction installation site, or awaiting installation, whether on or off site.
  - f. Policy shall contain a **waiver of subrogation** against the County of Gila.
  - g. Contractor is responsible for the payment of all policy deductibles.
- B. **ADDITIONAL INSURANCE REQUIREMENTS:** The policies shall include, or be endorsed to include, the following provisions:
- 1. On insurance policies where the County of Gila is named as an additional insured, the County of Gila shall be an additional insured to the full limits of liability purchased by the Contractor even if those limits of liability are in excess of those required by this Contract.
  - 2. The Contractor's insurance coverage shall be primary insurance and non-contributory with respect to all other available sources.
  - 3. Coverage provided by the Contractor shall not be limited to the liability assumed under the indemnification provisions of this Contract.
- C. **NOTICE OF CANCELLATION:** Each insurance policy required by the insurance provisions of this Contract shall provide the required coverage and shall not be suspended, voided, canceled, reduced in coverage or endorsed to lower limits except after thirty (30) days prior written notice has been given to the County. Such notice shall be sent directly to Risk Management, Birdie DeNero, 1400 E. Ash St., Globe, AZ, and shall be sent by certified mail, return receipt requested.
- D. **ACCEPTABILITY OF INSURERS:** Insurance is to be placed with insurers duly licensed or approved unlicensed companies in the state of Arizona and with an "A.M. Best" rating of not less than B+ VI. The County in no way warrants that the above-required minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency.
- E. **VERIFICATION OF COVERAGE:** Contractor shall furnish the County with certificates of insurance (ACORD form or equivalent approved by the County) as required by this Contract. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

All certificates and endorsements are to be received and approved by the County before work commences. Each insurance policy required by this Contract must be in effect at or prior to commencement of work under this Contract and remain in effect for the duration of the project. Failure to maintain the insurance policies as required by this Contract or to provide evidence of renewal is a material breach of contract.

All certificates required by this Contract shall be sent directly to Risk Management, Birdie DeNero, 1400 E. Ash St., Globe, AZ. The County project/contract number and project description shall be noted on the certificate of insurance. The County reserves the right to require complete, certified copies of all insurance policies required by this Contract at any time.

- F. **SUBCONTRACTORS:** Contractors' certificate(s) shall include all subcontractors as additional insured's under its policies **or** Contractor shall furnish to the County separate certificates and endorsements for each subcontractor. All coverage's for subcontractors shall be subject to the minimum requirements identified above.
- G. **APPROVAL:** Any modification or variation from the insurance requirements in this Contract shall be made by the County Attorney, whose decision shall be final. Such action will not require a formal Contract amendment, but may be made by administrative action.

**ARTICLE 6 – DISPUTE RESOLUTION:** In the event of any dispute arising between the County and the Contractor regarding any part of the Agreement or the Contract Documents, or the Parties' obligations or performance hereunder, either Party may institute the dispute resolution procedures set forth herein. The Parties shall continue performance of their respective obligations hereunder notwithstanding the existence of a dispute.

- (a) Informal Dispute Resolve. Any party may from time to time call a special meeting for the resolution of disputes that would have a material impact on the cost or progress of the Project. Such meeting shall be held at the County's offices within three (3) working Days of written request therefore, which request shall specify in reasonable detail the nature of the dispute. The County's Authorized Representative, the Contractor's Authorized Representative and any other person who may be affected in any material respect by the resolution of such dispute, shall attend the meeting. Such Authorized Representatives shall have authority to settle the dispute and shall attempt in good faith to resolve the dispute.



- (b) Mediation. If the dispute has not been resolved within five (5) working days after the special meeting has been held, a mediator, mutually acceptable to the Parties and shall be appointed. The Parties shall share the cost of the mediator. The mediator shall be given any written statements of the Parties and may review the Site and any relevant documents. The mediator shall call a meeting of the Parties within ten (10) working Days after his/her appointment, which meeting shall be attended by the County's Authorized Representative, the Contractor's Authorized Representative and any other person who may be affected in any material respect by the resolution of such dispute. Such Authorized Representatives shall have authority to settle the dispute and shall attempt in good faith to resolve the dispute. During such ten (10) Day period, the mediator may meet with the Parties separately.
- (c) Mediation Minutes. No minutes shall be kept with respect to any mediation proceedings, and the comments and/or findings of the mediator, together with any written statements prepared, shall be non-binding, confidential and without prejudice to the rights and remedies of any Party. The entire mediation process shall be completed within twenty (20) working Days of the date upon which the initial special meeting is held, unless the Parties agree otherwise in writing. If the dispute is settled through the mediation process, the decision will be implemented by written agreement signed by the Parties.
- (d) Arbitration. If a dispute involving \$250,000 or less is not resolved pursuant to the procedures set forth in paragraphs 24. (a), (b) and (c) above, then the Parties shall submit the matter to binding arbitration in accordance with the following:
- (e) Jurisdiction. The Parties hereby agree, as permitted by A.R.S. § 12-1518, that claims, disputes and other matters in question hereunder which cannot be resolved pursuant to the procedures set forth in 24. (a), (b), and (c) above (including those subject to mandatory arbitration pursuant to rules adopted under A.R.S. § 12-133) shall be subject to arbitration as set forth below; provided, however, that the arbitrators shall have no power to change any of the provisions of this Agreement in any respect nor shall they have any power to make an award of reformation, and the jurisdiction of the arbitrators is hereby expressly limited accordingly.
- (f) Request. Either Party may serve the other with a written request for arbitration, which notice shall also specify the name and address of one person designated to act as arbitrator on behalf of that Party. Within 15 days after the service of such request, the other Party shall give to the first Party written notice specifying the name and address of the person designated to act as arbitrator on its behalf. If the other Party fails to so notify the first Party within the time above specified, then the appointment of the second arbitrator shall be made by the AAA pursuant to the Rules then in effect. The arbitrators chosen shall meet within 10 days after the second arbitrator is appointed and shall appoint a third arbitrator

who shall be a competent, impartial person, and in the event of their being unable to agree upon such appointment within the foregoing 10-day period, the third arbitrator shall be selected by the Parties themselves if they can agree thereon within a further period of 15 days. If the Parties do not so agree, then either Party on behalf of both may request the American Arbitration Association to appoint such third arbitrator. The person appointed shall be the third arbitrator.

- (g) Rules. The arbitration shall be conducted in Gila County, Arizona, and in accordance with the Rules.
- (h) Decision. The arbitrators shall render their decision, upon the concurrence of at least two of their number, within 30 days after the appointment of the third arbitrator. Their decision shall be in writing and counterpart copies shall be delivered to each Party. A decision in which any two of the arbitrators acting hereunder concur may be appealed directly to the Superior Court of Gila County within 30 days of the date of the decision. Unless so appealed, such decision shall in all cases be final, binding and conclusive upon the Parties and judgment upon the decision may be entered by any court having jurisdiction thereof.
- (i) Fees. Unless otherwise required by the decision of the arbitrators, each Party shall pay the fees and expenses of the original arbitrator appointed by such Party or in whose stead, as above provided, such arbitrator was appointed, and the fees of the third arbitrator, if any, shall be borne equally by the Parties. Each Party shall bear the expense of its own counsel, experts, and preparation and presentation of proof, in connection with all proceedings prior to the entry of a decision by the arbitrators.

**ARTICLE 7 – LEGAL ARIZONA WORKERS ACT COMPLIANCE:** Contractor hereby warrants that it will at all times during the term of this Contract comply with all federal immigration laws applicable to Contractor's employment of its employees, and with the requirements of A.R.S. § 23-214 (A) (together the "State and Federal Immigration Laws"). Contractor shall further ensure that each subcontractor who performs any work for Contractor under this contract likewise complies with the State and Federal Immigration Laws. County shall have the right at any time to inspect the books and records of Contractor and any subcontractor in order to verify such party's compliance with the State and Federal Immigration Laws.

Any breach of Contractor's or any subcontractor's warranty of compliance with the State and Federal Immigration Laws, or of any other provision of this section, shall be deemed to be a material breach of this Contract subjecting Contractor to penalties up to and including suspension or termination of this Contract. If the breach is by a subcontractor, and the subcontract is suspended or terminated as a result, Contractor shall be required to take such steps as may be necessary to

either self-perform the services that would have been provided under the subcontract or retain a replacement subcontractor, (subject to Contractor approval if MWBE preferences apply) as soon as possible so as not to delay project completion.

Contractor shall advise each subcontractor of County's rights, and the subcontractor's obligations, under this Article by including a provision in each subcontract substantially in the following form:

"Subcontractor hereby warrants that it will at all times during the term of this contract comply with all federal immigration laws applicable to Subcontractor's employees, and with the requirements of A.R.S. § 23-214 (A). Subcontractor further agrees that County may inspect the Subcontractor's books and records to insure that Subcontractor is in compliance with these requirements. Any breach of this paragraph by Subcontractor will be deemed to be a material breach of this contract subjecting Subcontractor to penalties up to and including suspension or termination of this contract."

Any additional costs attributable directly or indirectly to remedial action under this Article shall be the responsibility of Contractor. In the event that remedial action under this Article results in delay to one or more tasks on the critical path of Contractor's approved construction or critical milestones schedule, such period of delay shall be deemed excusable delay for which Contractor shall be entitled to an extension of time, but not costs.

**ARTICLE 8 – LAWS AND ORDINANCES:** This agreement shall be enforced under the laws of the State of Arizona. Contractor shall maintain in current status all Federal, State and Local licenses and permits required for the operation of the business conducted by the Contractor. The Contractor shall comply with the applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and applicable federal regulations under the Act.

**ARTICLE 9 – ANTI-TERRORISM WARRANTY:** Pursuant to A.R.S. §35-397 the Contractor certifies that it does not have scrutinized business operations in Iran or Sudan and that they are in compliance with the Export Administration Act and not on the Excluded Parties List.

**ARTICLE 10 – CANCELLATION:** This agreement is subject to cancellation pursuant to A.R.S. § 38-511. If the Agreement is terminated, the county shall be liable only for payment for services rendered and accepted material received by the County before the effective date of termination. The Contractor shall be considered in default of this contract and such default will be considered as cause to terminate the contract for any of the following reasons if the Contractor:

- a. Fails to perform the work under the contract within the time specified in the "Notice to Proceed"; or
- b. Fails to perform the work or fails to provide sufficient workers, equipment or data to assure completion of work in accordance with the terms of the contract; or
- c. Performs the work unsuitably or neglects or refuses to follow the Scope of Work; or
- d. Discontinues the prosecution of the work; or
- e. Fails to resume work which as been discontinued within a reasonable time after notice to do so; or
- f. Becomes insolvent or is declared bankrupt, or commits any act of bankruptcy or insolvency; or
- g. Makes assignment for the benefit or creditors.
- h. If it is found that gratuities were offered or given by the Contractor or any agent or representative of the Contractor, to any officer or employee of the County.

**ARTICLE 11 – PAYMENT:** The Scope of Services as outlined above will be performed with a not-to-exceed without written authorization budget of \$49,826.81. Additional work, as authorized, will be performed on a Time and Materials basis per a mutually agreed upon fee between the County and the Contractor. Change orders cannot exceed twenty-five percent (25%) of the total contract.

Final payment application, Contractor shall provide the County with a Waiver of Liability pursuant to A.R.S. §33-1008 prior to receiving payment from subcontractors, laborers, materialmen and suppliers for all work, materials, equipment and services provided for or to the project under this contract.

This project will not be bonded but will be paid in a lump sum at the final acceptance of the job.

**IN WITNESS WHEREOF**, three (3) identical counterparts of this contract, each which shall include original signatures and for all purposes be deemed an original thereof, have been duly executed by the parties hereinabove named, on the date and year first above written.

In return for the performance of the Contract by the Contractor, the County agrees to pay the amount of not more than \$ 49,826.81 including all applicable taxes through a payment schedule as described in the Contract documents and as may be modified and executed by change orders.

**VHF REPEATER SYSTEM IMPLEMENTATION  
CONTRACT 051910**

**GILA COUNTY:**

**GILA COUNTY BOARD OF SUPERVISORS**

\_\_\_\_\_  
Michael A. Pastor, Chairman, Board of Supervisors

**CONTRACTOR:**

**CANYON STATE WIRELESS, INC..**

\_\_\_\_\_  
Contractor Signature

\_\_\_\_\_  
Print Name

**ATTEST:**

\_\_\_\_\_  
Marian Sheppard, Deputy Clerk of the Board

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Bryan B. Chambers, Chief Deputy County Attorney  
for Daisy Flores, County Attorney